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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 JOHN THOMAS MUSIC,

8 Plaintiff,

9 v.

10 JAMES R. KEY,

11 Defendant.

NO. 4:17-CV-5006-TOR

ORDER ADOPTING REPORT AND  
RECOMMENDATION  
TO DISMISS HABEAS PETITION

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13 BEFORE THE COURT is John Thomas Music's (Petitioner's) petition for  
14 writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 6) and Respondent's  
15 Answer (ECF No. 11), which the Court has construed as a motion to dismiss, ECF  
16 No. 11, 16. Petitioner, a prisoner at the Washington State Penitentiary at Walla  
17 Walla, Washington, is proceeding *pro se*; Respondent is represented by Assistant  
18 Attorney General Paul D. Weisser. The parties have not consented to proceed  
19 before a magistrate judge.  
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ORDER ADOPTING REPORT AND RECOMMENDATION  
TO DISMISS HABEAS PETITION ~ 1

1 The matter was submitted to the Honorable Magistrate Judge John T.  
2 Rodgers, who issued a Report and Recommendation (ECF No. 17). The R&R  
3 recommended denying the habeas petition as time barred and allowed the parties to  
4 submit written objections by August 7, 2017. No objection has been filed by either  
5 party. After reviewing all filings and liberally construing Petitioner's submissions  
6 in the light most favorable to him, the Court adopts the Report and  
7 Recommendation (ECF No. 17) and GRANTS Defendant's Motion to Dismiss.

8 **ACCORDINGLY, IT IS HEREBY ORDERED:**

9 1. Defendant's (construed) Motion to Dismiss (ECF No. 11) is

10 **GRANTED.**

11 2. The Court **ADOPTS** the Report and Recommendation (ECF No. 17).

12 Plaintiff's Petition for relief (ECF No. 6) is **DENIED.**

13 3. Each party to bear its own costs and expenses.

14 The District Court Executive is directed to **enter** this Order and Judgment  
15 accordingly, **furnish** copies to the parties, and **close** the file.

16 **DATED** August 25, 2017.



*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge